

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Telecommunications Relay
Services for Individuals with
Hearing and Speech Disabilities

CC Docket No. 03-123

Reply Comment

Petition for Clarification Concerning the Provision of Deaf Blind Relay
Service (DBRS)

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I. Procedural History

On May 18, 2007, Hawk Relay filed a petition for clarification with the Federal Communications Commission (the Commission) for a ruling determining a new form of relay service, Deaf Blind Relay Service (DBRS), to be considered a form of relay service under Section 225 and eligible for reimbursement from the Interstate TRS Fund. On January 4, 2008, the Commission published a public notice in the Federal Register seeking comment on the proposed new form of relay service with comments due on February 4 and reply comments due on February 19. With this filing, Hawk Relay is submitting its reply comment addressing two of the unanswered questions raised in the Public Notice, jurisdictional separation of costs and minimum requirements.

II. Introduction

This filing will address the questions of jurisdictional separation of costs and minimum requirements raised in the Public Notice.

III. Jurisdictional Separation of Costs

While Hawk Relay recognizes that a regulatory scheme based on the actual usage and locations of made calls similar, if not the same, to traditional TRS can be easily implemented for the provision of DBRS, it is in the public interest to reimburse the costs for all DBRS calls from the

Interstate Fund initially and the costs to be reimbursed on a true-up compensation basis.

As stated in the proposal filed last year, Hawk Relay proposed a two-tiered pricing system. The first tier would consist of invoices for projected fixed costs for the upcoming quarter (3 months), plus any differential for actual fixed costs of the previous quarter. The second tier would be a monthly billing to the FCC (by the 15th of the month following the calendar month in question) of the on-location service costs (consisting mostly of Communication Facilitators' fees).

Hawk Relay recognizes the distinction between interstate and intrastate calls and that Congress intended to have states responsible for reimbursement of the intrastate TRS costs while the Interstate TRS Fund reimburses the costs of interstate TRS. However, this was not the case for all relay service offerings.

Initially, as the TRS calls were made over the Public Switched Telephone Network (PSTN), the technology used allowed for automatic determinations of the location of every TRS call made. This allowed for the oversight and the mechanism for reimbursing the providers for the costs of TRS to be divided between the states and the Interstate TRS Fund on an actual-usage basis.

Recent relay service offerings such as IP Relay and VRS, on the other hand, did not have technically feasible technology that could automatically determine whether a call was intrastate or not. As a result, from their infancy to the present, the costs for every single IP Relay and VRS calls were reimbursed by the Interstate TRS Fund.

Now, with the DBRS provision, Hawk Relay recognizes that it is possible to differentiate such interstate and intrastate relay calls as the originating location can be easily identified, i.e., the home of the relay user or the address of the relay center from where such an user can make calls. But given the fact that such a needed and important service is not in place at this time in addition to the uncertainty surrounding the demand for such a service, it is certainly in the public interest to have the Interstate TRS Fund to reimburse all costs until a certain time when the service becomes mandatory and also when all states are able to subsidize the DBRS provision.

With the fact that such IP Relay and VRS calls not allowing for a technically feasible method to accurately identify the location of the originating caller, the Commission in addition cited the fact that the development of the provision was new and also the use of such calls should be encouraged. It was noted that such funding arrangements was

temporary and intended to speed the development of VRS and was noted to be done in the public interest.

This special arrangement used for IP Relay and VRS should be applied here with the DBRS provision initially. During the initial phase of the offering, it would be a great burden to the providers and to the states as well to require allocation of costs on a state by state basis because the providers would be required to negotiate contracts with each of the 50 states and it is unlikely that all 50 states would be willing to contract with every provider. Finally, Section 225 requires only that the Commission's regulations 'generally' provide for the allocation of costs, which allows leeway in determining whether such exemptions are warranted. Of course, the Commission should continue to assess the availability of the service and its development and at some point in time determine when it best can be funded in a traditional manner.

IV. Minimum Requirements

It should be recognized that DBRS itself is a unique provision which does not fit the traditional mold of other relay service offerings. As a result, certain minimum requirements may not apply and permanent waivers may be required. In other cases, some minimum requirements may need to be modified. However, most of the standards should be

applicable. This discussion will briefly run through each minimum standard and give judgment on whether they apply and what the criteria would be.

Types of Calls

DBRS providers should be able to transmit a variety of calls including two-line VCO and HCO and other variations. However, transmitting TTY calls is not applicable here because the device is not used here.

Emergency call handling, during the initial phase of the provision at least, should be waived. Furthermore, it may not apply in the provision of DBRS because both options do not have an immediate action between the time of the emergency and the actual utilization of such a service. First in where the DBRS is provided at the place of residence., there will be at least some significant lag time between the time of the request and the time the CF arrives at the user's place of residence. As for the second form of the DBRS provision, traveling to a DBRS center to make an emergency call on its face is absurd given the urgent response needed for such emergency calls. For the reasons outlined above, emergency call handling should be waived at least temporarily.

Technical Standards

Hawk Relay believes the technical standards except one applies here and should not be waived or modified. They include facilities, equal access to interexchange carriers, answering machine retrieval, automatic call forwarding, call release, speed dialing, three-way calling. The interrupt functionality does not apply here as it is for TRS thus should be permanently waived.

Operating Standards

The use of Communication Facilitators in the provision of DBRS is similar to that of Communication Assistants (CAs) in some aspects thus the minimum requirements pertaining to CAs may apply. Such a requirement is gender preference. However, given the fact that DBRS is yet to be implemented and the demand uncertain, this requirement should be waived initially. If the Commission feels it is warranted, providers should be able to meet the gender preference requirement at least 75% of the time initially before a more stringent requirement is in place.

As for the other requirements such as typing speed and hot keys, they should be given permanent waivers because they do not apply in the provision of DBRS. CF in-call replacement should at least initially be waived during the initial phase due to the uncertainty in demand for DBRS.

Finally, the question of qualified interpreter as a minimum standard should also apply. The standard here is effective communication and it is the role and responsibility of the CFs to ensure there is effective communication between the user and the receiving party.

As for the speed of answer requirement, when CFs are sent to the home, it is Hawk Relay's belief that at least a two-hour speed of answer requirement should be in place for the provision of DBRS. This means that the time between the request by the user and the CF's arrival should be no longer than two hours. As for the other form of the provision, where the user attends a DBRS center, Hawk Relay believes the speed of answer requirement should be waived in the initial phase. As explained earlier, while there is an urgent need for this service, there remains uncertainty as to demand. It is possible that the demand for the service may overwhelm the CF staff leading to prolonged wait times. After implementation of this offering, the supply and demand should be monitored to determine the most appropriate speed of answer requirement.